

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

NELSON LLAVATA,

Plaintiff,

vs.

ROMEO ARANAS, *et al.*,

Defendants.

Case No. 2:11-cv-00250-JAD-CWH

**ORDER**

Discovery in this matter has been closed for some time.<sup>1</sup> Approximately thirty (30) days prior to the discovery cutoff date, on October 22, 2012, the undersigned issued a recommendation that Plaintiff's motion to amend his complaint (#54) be granted to the extent he sought to name Romeo Aranas. (#75). Plaintiff objected to the recommendation, which objection was fully briefed prior to the dispositive motions deadline. Defendants' motion for summary judgment (#83) was timely filed on December 19, 2012. Upon motion, Plaintiff was given until April 1, 2013 to file his response to the motion for summary judgment. (#103). The response (#105) was filed on March 29, 2013, the same day that the Court entered an order accepting in full the undersigned's recommendation (#75) regarding amending the complaint. (#106). Plaintiff subsequently filed his second amended complaint consistent with the Court's ruling. (#107).

On February 18, 2014, Defendants' motion for summary judgment was granted. (#112). In its order, the Court noted that Defendant Aranas was only added as a defendant in the second

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<sup>1</sup> The discovery plan and scheduling order set the original discovery cutoff date as August 20, 2012. *See* Order (#44). The discovery cutoff was subsequently extended to November 19, 2012; the dispositive motions deadline to December 19, 2012; and the Joint Pretrial Order deadline to January 18, 2013. *See* Order (#67).

1 amended complaint, had not yet made an appearance in the case, and was not one of the parties  
2 moving for summary judgment. *See* Order (#112) at n. 1. As such, the Nevada Attorney General's  
3 Office was ordered to advise the Court within 21 days of the order whether it would accept service  
4 for Defendant Aranas. (#112) at 14:1-14. On March 11, 2014, the Nevada Attorney General's  
5 Office provided notice that it accepted service on behalf of Defendant Aranas (#113), and filed an  
6 answer on his behalf on April 9, 2014. (#117).

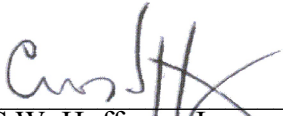
7       There have been no filings by either party since Defendant filed his answer. Discovery has  
8 been closed for approximately two years. The only change to the operative complaint as a result of  
9 the amendment was the addition of Defendant Aranas in the place of John Doe. Neither the factual  
10 allegations nor legal claims in the complaint changed. Defendant Aranas is represented by the  
11 Nevada Attorney General's Office, which also represented the other defendants in this matter. The  
12 likelihood of the need for additional discovery in this matter is, at best, remote. Nevertheless, as  
13 service on Defendant Aranas was not accepted until after the order on summary judgment, the  
14 Court will grant the parties an opportunity to explain why additional discovery, if any, may be  
15 necessary. Any request for additional discovery must comply with the requirements of Local Rule  
16 26-4 and be made in a written joint status report submitted by the parties. Given that Defendant  
17 Aranas was only served after the dispositive motion deadline, the joint status report should also  
18 address the need for a new dispositive motions deadline. Lastly, the Court notes that Defendant  
19 Aranas answer was addressed to an improperly filed amended complaint. Plaintiff's second  
20 amended complaint (#111) was not filed consistent with either the Federal Rules or Local Rules.  
21 The operative complaint in this matter remains Plaintiff's second amended complaint filed on April  
22 9, 2013. (#107).

23       Based on the foregoing and good cause appearing,

24       **IT IS HEREBY ORDERED** that the parties shall submit a written joint status report on or  
25 before **Friday, December 12, 2014**, identifying what discovery, if any, remains. The parties shall  
26 also identify a new dispositive motions deadline.

27       **IT IS FURTHER ORDERED** that Plaintiff shall **show cause in writing** on or before  
28 **Friday, December 12, 2014**, why his Second Amended Complaint (#111) should not be **stricken**.

DATED: November 18, 2014.

  
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C.W. Hoffman, Jr.  
United States Magistrate Judge